

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**Drewes Farms Partnership,**

Plaintiff,

v.

**City of Toledo,**

Defendant,

and

**Lake Erie Ecosystem and  
Toledoans for Safe Water, Inc.,**

Intervenor-Defendants.

No. 3:19-cv-00434-JZ

The Honorable Jack Zouhary

**[Proposed]  
Intervenor-Defendants'  
Motion to Dismiss**

*Oral Argument requested*

**[PROPOSED] INTERVENOR-DEFENDANTS' MOTION TO DISMISS**

March 18, 2019

1 Intervenor-Defendants Toledoans for Safe Water and Lake Erie Ecosystem,  
2 by and through the undersigned counsel, move to dismiss Plaintiff Drewes Farms  
3 Partnership's claims for lack of standing and failure to state a claim, under Fed. R.  
4 Civ. P. 12(b).

5 Drewes Farms Partnership has not shown an injury in fact. Its Complaint  
6 fails to show a concrete injury caused by the Lake Erie Bill of Rights, because it  
7 has not shown that Drewes Farms Partnership is violating that law. Its Complaint  
8 also fails to show actual or imminent harm, as it is merely hypothetical that Drewes  
9 Farms Partnership could be violating the Lake Erie Bill of Rights. As an Ohio  
10 partnership presumably only operating in Ohio, Drewes Farms Partnership also  
11 lacks standing to bring a "foreign affairs preemption" claim.

12 Drewes Farms Partnership has not stated a claim for violation of the United  
13 States Constitution, as it has not provided any authority for its allegation that a  
14 partnership has rights under the Fourteenth Amendment. Combined with Drewes  
15 Farms Partnership's lack of standing for its "foreign affairs preemption" claim, this  
16 means that Drewes Farms Partnership has not invoked federal question subject  
17 matter jurisdiction, and therefore its remaining "state law claims" should be  
18 dismissed.

19 Intervenor-Defendants have attached a Memorandum in Support of this  
20 Motion to Dismiss.

Respectfully submitted this Eighteenth Day of March, 2019.

**/s/ Terry J. Lodge**

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*Lake Erie Ecosystem and Toledoans for Safe Water, Inc.*

**Certificate of Service**

I certify that I electronically filed this document with the Clerk of the Court for the United States District Court for the Northern District of Ohio by using the Court's CM/ECF system on March 18, 2019.

The other parties are Filing Users and are served electronically by the Notice of Docket Activity.

Dated: March 18, 2019

**/s/ Terry J. Lodge**

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